

11/14



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------|-------------|--------------------------|---------------------|------------------|
| 10/646,430 | 08/22/2003 | Brandon Stuart Burroughs | UTL00329 | 9170 |
| 32968 | 7590 | 11/13/2006 | EXAMINER | |
| KYOCERA WIRELESS CORP. | | | PIZIALI, JEFFREY J | |
| P.O. BOX 928289 | | | ART UNIT | |
| SAN DIEGO, CA 92192-8289 | | | PAPER NUMBER | |
| | | | 2629 | |

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

10/646,430

Applicant(s)

BURROUGHS, BRANDON
STUART

Examiner

Jeff Piziali

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 05 September 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
 - ☐ A. A complete listing of all of the claims is not present.
 - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

Continuation of 4(e) Other:

First and foremost, the applicant is cordially thanked for the 'Amendment and Response to Restriction Requirement' filed 5 September 2006. However, a seemingly non-compliant amendment has been found in the aforementioned response, requiring correction before examination may continue.

37 CFR 1.121(c)(1) requires, "All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of 'currently amended,' and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text."

The applicant's 'Amendment and Response to Restriction Requirement' (filed 5 September 2006) improperly labels claim 8 with the "previously presented" status identifier, while adding the phrase "Previously presented" (see page 3, claim 8, line 2) to the pending claim language, without using any underlining to show that text has been added.

The applicant is respectfully encouraged to either use underlining and the "currently amended" status identifier to show that text has been added to the claim; or to remove the term "Previously presented" from the claim language.

By such reasoning, this Notice of Non-Compliance is deemed necessary and proper at this time.

Please note: The claims have not been checked to the extent necessary to determine the presence of all possible non-compliance errors. If additional issues of non-compliance are discovered in a subsequent amendment, yet another Notice of Non-Compliant Amendment will be necessitated. Applicant's cooperation is requested in correcting any other errors of which applicant may become aware in the claims.



Jeff Piziali

7 November 2006